IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.2030 OF 2004

Shri Hemant Vithal Chavan & Anr. ..Petitioners

Vs.

The State of Maharashtra and Anr. ..Respondents

Mr.P.C.Kansari i/b Kansara & Thanekar for the petitioners

Mrs.S.D.Shinde, A.P.P. for the state

CORAM : J.N.PATEL &
SMT.ROSHAN S.DALVI, JJ.

DATED : 4TH SEPTEMBER, 2006

P.C.:

1. Heard.

2. The petitioner no.1 is the Executive Director of the Company, M/s.Swastik Rubber Products Ltd., who has approached this court for quashing the proceeding relating to Crime No.130 of 2003 which has been registered against the Directors and the company for having committed

offence under section 406 r/w sec.34 of the Indian Penal Code on the complaint lodged by respondent no.1 on 19.8.03. The petitioners have raised various grounds including that respondent no.2 company is now before BIFR. Whatever may be the case, the petitioners can very well take this as a defence if it is available to them under the law.

3. Prima facie, we are of the view that on the date petitioner company failed to deposit their part of the contribution in the account of Provident Fund Commissioner and thus, they have committed offence under section 406 r/w sec.34 of the Indian Penal Code.

4. As it pertains to a company registered under the Companies Act and is governed by Board of Directors, we do not find any merits in the petition. Before we part with the petition, we would like the authorities to expeditiously conclude the investigation and file charge sheet if they have not done so till today, particularly in

the backdrop that the petition is pending since 2004 without any interim orders protecting the petitioners. Petition is dismissed. The learned A.P.P. to communicate this order to the concerned authorities.

(SHRI J.N. PATEL, J)

(SMT.ROSHAN DALVI, J)